



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No. 0071-02
20 May 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting, in effect, that his discharge be upgraded.

2. The Board, consisting of Messrs. Geisler, Mackey, and Taylor reviewed Petitioner's allegations of error and injustice on 15 May 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner was inducted into the Marine Corps on 18 January 1943 at age 19. He served without incident until 24 September 1943 when he was convicted by a summary court-martial for exchanging post while on duty as a sentinel. Punishment imposed was confinement for one month and forfeiture of \$25 per month for six months.

d. Petitioner served without further incident until 15 September 1945 when he was convicted by a second summary court-

martial for sleeping on watch. Punishment imposed was confinement for two months and forfeiture of \$27 per month for six months. His record further reflects that he participated in action against the Japanese on Bougainville, Guadalcanal, and Okinawa between November 1943 and June 1945. On 12 December 1945 he was discharged from the Marine Corps under honorable conditions.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board concluded that the Petitioner was discharged correctly based on regulations in effect at that time, which stated that if an individual was convicted by two summary court-martials, he was to be discharged under honorable conditions (general). However, the Board also noted the minor nature of his first court-martial conviction, his military service during World War II, and his good post service conduct. The Board also notes that that his conduct and proficiency marks of 4.4 and 4.2, respectively, would normally have qualified him for an honorable discharge. Accordingly, the Board concludes that an honorable discharge vice an under honorable conditions discharge is appropriate. Accordingly, the Board concludes that relief in the form of recharacterization is appropriate.

RECOMMENDATION:


a. That Petitioner's naval record be corrected by changing the record to show that he was issued an honorable discharge on 12 December 1945 vice the discharge under honorable conditions actually issued on that date. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

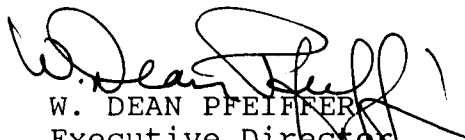
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director